

REMARKS**NEW COUNSEL OF RECORD**

Prosecution of the present application has been assumed by Carr & Ferrell LLP (Customer Number 22830). A *Revocation and Power of Attorney* has been filed to formalize this change in oversight. The Applicants' undersigned representative look forward to working with the Examiner in bringing prosecution of the present application to a mutually agreeable conclusion.

RESTRICTION

The Examiner has required "[r]estriction to one of the following inventions" identified in the action. *Office Action*, 2. Without affirming or objecting to the propriety of the restriction requirement, the Applicants hereby elect without traverse the invention as characterized by the Examiner in Group I: "a method for providing a personal media service." *Office Action*, 2. According to the Examiner, Group I encompasses claims 1-9 and 11-21. See *Office Action*, 2. In light of the aforementioned election, the Applicants have cancelled claims 22-45 without prejudice. The Applicants expressly reserve the right to pursue these cancelled claims or any variant of the same in a continuation or divisional application under 35 U.S.C. §§ 120 or 121.

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The Applicants note that the Examiner identified claim 10 as purportedly belonging to Group II for "a method for presenting information about media content comprising converting data to speech." *Office Action*, 3. Claim 10 is dependent from claim 1, which is a member of Group I. According to the Examiner's restriction, claim 1 should thus be deemed a generic claim vis-à-vis claim 10. See MPEP § 806.04(d). Should claim 1 subsequently be found to be allowable, claim 10 should likewise be found allowable. See 35 U.S.C. § 112, ¶ 4. The Applicants have, therefore, withdrawn claim 10 subject to the ongoing examination of claim 1 from Group I.

OBJECTION TO THE SPECIFICATION

The Examiner objected to the specification finding that "[t]he title of the invention is not descriptive." *Office Action*, 5. The Applicants have amended the title of the present application to read 'Personalized Episodic Media Download Service.' The Applicants respectfully request entry of the new title and issuance of an *Updated Filing Receipt*.

The Examiner further objected to the lack of identification of the co-filed patent application. See *Office Action*, 5. The Applicants have amended the specification to properly identify the application number and filing date of co-pending patent application number 10/717,176.

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The Examiner also objected to the use of the trademarks 'smartphone' and 'Bluetooth.' See *Office Action*, 5. The Applicants respectfully traverse the Examiner's characterization that 'smartphone' is a trademark of any particular entity. A smartphone is a mobile phone offering advanced capabilities beyond a typical mobile phone, often with PC-like functionality. There is no industry standard definition of a smartphone nor is there any entity known to the Applicants that has acquired trademark rights as to the same. Bluetooth, however, is a registered trademark of Bluetooth SIG, Inc. The Applicants have, therefore, amended the specification as is appropriate.

CLAIM 6

While not noted by the Examiner, the present application did not include a claim 6. The Applicants have, therefore, introduced a placeholder entry for claim 6 with the status identifier of 'cancelled.' Through this action, the application now complies with 37 C.F.R. § 1.75(f) that requires the "several claims" to "be numbered consecutively in Arabic numerals."

CLAIM REJECTIONS UNDER 35 U.S.C. § 102(B)

The Examiner rejected independent claims 1, 14, and 20 as being anticipated by U.S. patent number 6,421,717 to Kloba et al. (Kloba). See *Office Action*, 6. The Applicants respectfully disagree.

Kloba concerns the off-line 'surfing' of web page content on a device synchronized with the corresponding web-server. The presently claimed invention, however, is related to the digital audio and digital video mediums. The audio and video objects are organized by the application to mimic the behavior of traditional radio and television while allowing for personalization.

For example, Kloba discloses a mechanism to select desired content on a server (see Fig. 1C, step 160B) and then synchronizes the device to the server. Only then are the selected channels cached on the device. In contrast, claim 1 of the present application provides for 'storing media content of at least two pre-defined channels provided by a remote publisher in a local cache **prior to a selection by the user.**' This contrasts with the usual Internet streaming audio experience (like that of Kloba) where the listener must wait as each station is contacted, a connection negotiated, content is transmitted and buffered, and then played back for the user.

Claim 14 recites a similar limitation with respect to 'providing a user with a group of pre-defined channels, wherein content corresponding to the group of pre-defined channels is stored in a local cache **prior to selection by a user.**' Independent claim 20 recites a similar limitation with respect to 'locally caching at least two of the pre-defined channels **prior to selection by the user** so that either of the cached pre-defined channels is available for immediate playback.'

As noted by the specification (as it pertains to the presently claimed subject matter), multiple channels are made available to provide a tuning experience similar to that of conventional radio. Customized audio content is pre-cached allowing the user to choose among multiple immediately available programming offerings. This allows the presently claimed invention the ability to provide such 'tuning' even when in a temporarily disconnected or offline state. This offering is simply not possible with the Kloba patent and the Examiner's anticipation rejection is, therefore, overcome.

CONCLUSION

The Applicants have elected the claims of Group I for further examination. Claim 10 (of Group II) has been withdrawn from consideration pending the outcome of examination of claim 1. Claims 22-45 have been cancelled without prejudice in light of the aforementioned election.

The Applicants have addressed the Examiner's objections to the specification with respect to the title of the present application, the identification of a co-pending application, and addressing the proper presentation of certain trademarks. The Applicants have also introduced a placeholder designation for previously un-presented claim 6.

The Applicants have evidenced the distinction between the independent claims of the present application and the Kloba reference. Kloba selects desired content on a server and *then* synchronizes the device to the server. Only then are the selected channels cached on the device. In contrast, each of the independent claims of the present application provides for storing media content prior to a selection by the user. As a dependent claim incorporates by reference each and every limitation of the claim from which it depends, the Applicants contend that the dependent claims of the present application are likewise allowable.

With all rejections and objections having been overcome, the Applicants contend that the present application is now in condition for allowance. The Examiner is invited to contact the Applicants' undersigned representative with any questions concerning the present amendment and response.

Respectfully submitted,
Tom Carhart et al.

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By:

Kenneth M. Kaslow

Kenneth M. Kaslow, Reg. No. 32,246
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303
650.812.3400
650.812.3444